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Chairman: Mr. Politi (Italy)

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The meeting was called to order at 10.10 a.m.

Agenda item 163: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/55/33, A/55/295 and Add.1 and A/55/340)

1. **Mr. Mirzaee-Yengejeh** (Chairman of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization), introducing the report concerning the Special Committee's session held from 10 to 20 April 2000 in New York (A/55/23), said that the Special Committee had continued its substantive consideration of the various proposals made during its previous session and, in some areas, had clarified certain aspects of the subjects before it. Paragraphs 10 to 13 of the report contained a list of the proposals which had been taken up. The Special Committee had made two recommendations, which were contained in paragraphs 48 and 49, concerning the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions.

2. With regard to the Special Committee's working methods, he said that he had met the Chairman of the Committee on Conferences to discuss the question of the under-utilization of conference services by the Special Committee at its previous sessions. At its most recent session, the Special Committee had made a concerted effort to achieve optimal utilization of the resources available to it, as was demonstrated by the figures provided by the Department. It was to be hoped that the Special Committee would continue those efforts and would soon be in a position to take the necessary decisions on the issues raised in paragraphs 162 to 198 of the report.

3. **Mr. Alabrune** (France), speaking on behalf of the European Union, Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Norway, Poland, Romania, Slovakia and Slovenia, said that, on the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions, the European Union believed that every effort should be made to reduce the negative effects of sanctions on third States, as was demonstrated by its backing for the measures contained in the various resolutions on the topic and by its practice of providing

economic and humanitarian support to affected third States.

4. The proposals of the ad hoc expert group provided a useful basis for the consideration of measures aimed at minimizing the consequences of sanctions for vulnerable groups in the affected State and for the economies of third States. The European Union considered, however, that the Special Committee could not usefully and effectively launch a substantive debate on the various recommendations in the report until it had received the views of the Secretary-General on the suggestions by the experts, particularly with regard to their feasibility in political, financial and administrative terms.

5. With regard to targeted sanctions, which had been mentioned by many delegations at the most recent session of the Special Committee, and without prejudice to the Security Council's margin of discretion, it should be recognized that targeted sanctions could reduce the negative effects of sanctions on the population of the affected State and on third States. In that context, the European Union stressed the importance of the initiative by Germany concerning the improvement of the arms embargo and travel restrictions regime, put forward at an expert meeting held in Bonn in November 1999, the results of which would be presented in December 2000 in Berlin and probably in February 2001 in New York. The European Union was awaiting with interest the conclusions and recommendations of the working group on sanctions established by the Security Council.

6. With regard to the International Court of Justice, the European Union shared the concerns expressed in previous years about the need to provide to the Court, as the principal judicial organ of the United Nations, all the resources it required in order to fulfil its tasks effectively.

7. The European Union welcomed the amendments to the proposal for the establishment of a dispute prevention and early settlement service. The European Union had hoped that, since the proposal had been refocused on the need for States to resort as far as possible to existing mechanisms, particularly within the framework of the United Nations, the Special Committee would respond favourably to the amended document, but unfortunately that had not been the case.

8. The European Union thanked the Secretary-General for his work to reduce the backlog in the

publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, which it considered to be of great importance in relation to the implementation of the Charter of the United Nations and the activities undertaken by the organs of the Organization. The European Union welcomed the establishment of a trust fund for the updating of the *Repertoire*, to which Germany, Portugal and the United Kingdom had already contributed, and urged all States Members to contribute to the fund.

9. The documents which had been considered by the Special Committee in 2000, some of which had been on its agenda for several years, were often worded in excessively vague terms; moreover, they did not always take into account the practice of the Organization in the area in question and, at times failed to respect the balance established by the Charter, especially the respective roles of the Security Council and the General Assembly. As in the 1999, the European Union did not feel that it was necessary to recommend to the General Assembly that it should request the International Court of Justice for an advisory opinion on the question of the lawfulness of the use of force in the absence of express authorization by the Security Council.

10. Improvements needed to be made to enhance the effectiveness and credibility of the Special Committee's work. It was for that reason that in 1999 the European Union had supported the proposals to include in the Special Committee's mandate the reform of its own working methods as a matter of priority. That move must be pursued with boldness and determination so as to enable the Special Committee to exercise fully and effectively the functions assigned to it and to make the best use of the limited resources at its disposal. In that respect, among the many suggestions put forward in the Special Committee in 2000, the suggestion by Japan, which had engendered an interesting debate, was worthy of interest; it was regrettable that the Special Committee had not reached agreement on that document. The debate must be continued, even if certain proposals called in question traditional practices which, with the passage of time, were undermining rather than serving the effectiveness of the Special Committee's work.

11. The list of topics referred to the Committee was growing ever longer and had long since lost any coherence. That was due mainly to the fact that each

year the Committee considered topics that had already been considered in other forums. In addition, topics on which the Committee had not reached agreement after several years of consideration were still on its annual agenda, it would therefore be preferable, at the very least, to take up the consideration of those topics every two or three years in order to determine, if need be, whether there had been any changes in the positions of those concerned. There were various measures that could be adopted to improve the Committee's working methods and to prevent its work from becoming hopelessly uninteresting, namely, establishing a mechanism for eliminating topics on which there was no consensus after several years' consideration with no tangible results, establishing a mechanism for setting priorities and seriously considering the possibility of reviewing certain topics every two or three years; organizing informal meetings on some topics so that an item could be considered more rapidly; approving the report of the Special Committee more rapidly, following for example, the procedure used by the Ad Hoc Committee on International Terrorism (the European Union had made that proposal the year before, but regrettably, it had not been followed up). Lastly, the Committee could review new proposals before including them in its agenda. The European Union was of the view that it was difficult for new topics to be included in the Committee's agenda since they would be added to the numerous topics already on it. Nevertheless, such issues were not the responsibility solely of the Committee, but also of the General Assembly, which determined the Committee's mandate.

12. With regard to the length of the Committee's 2001 session, the European Union noted that the 2000 session had been reduced from two weeks to eight days without any harm being caused, and believed that the length should remain the same in 2001, since the Committee was making full use of the conference services at its disposal. The length of the Special Committee's sessions was closely related to its capacity to reform its working methods substantially.

13. **Mr. Mun Jong Chol** (Democratic People's Republic of Korea) said that sanctions against individual countries had serious direct or indirect effects on other countries in the areas of the economy, culture and trade, and that international peace and security could be jeopardized as a result. When consideration was being given to imposing sanctions, their potential impact on the development of the target

State and on the peace and security of the region should be borne in mind. Sanctions which had purely political aims and which were imposed in defiance of their adverse impact tended to diminish the credibility of the Security Council, as had occurred with the sanctions imposed since the end of the cold war. Accordingly, an overall assessment of the sanctions applied by the Security Council was even more important than assistance to third States affected by the application of sanctions. There were many cases in which sanctions served only to satisfy the objectives of certain influential countries; for that reason, in order to prevent abuses, it was necessary to have a legal framework that would define unambiguously the time-frame and scope of sanctions and make it possible to review them with a view to lifting them gradually.

14. The Special Committee should ensure that the United Nations did away with the vestiges of the cold war. It should be noted that the so-called "United Nations Command" — a fiction created illegally by the United States half a century earlier without consulting any United Nations body, which thus lacked authority to deal with political, military or financial issues involving the Organization, although it appeared to be one of its subsidiary organs — continued to exist in the Southern part of Korea. In the light of the positive developments in the Korean Peninsula, the United Nations should consider terminating the "United Nations Command".

15. Mr. Andjaba (Namibia), speaking on behalf of the States members of the Southern African Development Community (SADC), said that the imposition of sanctions should be approached with great caution, as their purpose was to modify the behaviour of a State in violation of the Charter of the United Nations and not to punish the helpless people of that State or third States. Sanctions should not undermine the capacity of the target State or of third States to carry out their humanitarian obligations. In addition, when they were applied, the specific situation of the target State should be taken into account.

16. SADC believed that the international community should address the problems of third States affected by the application of sanctions on a more equitable basis. Accordingly, the United Nations should, in accordance with Article 50 of the Charter, establish an appropriate mechanism to assist affected States.

17. In the view of SADC, the working paper submitted by the Russian Federation, entitled "Basic conditions and standard criteria for the introduction of sanctions and other coercive measures and their implementation", constituted a useful contribution to the debate on sanctions and their adverse humanitarian effects. The questions raised in the paper should be considered by the Special Committee, in the light of the views expressed in other bodies.

18. The members of SADC, pursuant to the principle of the peaceful settlement of disputes laid down in Article 33 of the Charter, had made use of the mechanisms provided for in that Article and encouraged other States to do the same.

19. Mr. Niehaus (Costa Rica), referring to the working paper submitted by the Russian Federation, entitled "Basic conditions and standard criteria for the introduction of sanctions and other coercive measures and their implementation", said that sanctions were a means of collective self-defence of the international community that was recognized in the Charter of the United Nations. Sanctions regimes should be established carefully to ensure that they fulfilled their primary aim, namely, to modify the illegal policies of an individual Government. Accordingly, sanctions should always be of limited duration, and must not be a way of punishing the innocent civilian population. If the target State was to modify its illegal policies, any sanctions regime should be accompanied by an active and ongoing dialogue among the parties. Only in that way could the State become part of the international community.

20. His Government had noted on numerous occasions that certain sanctions regimes which imposed prohibitions on specific individuals sometimes did not meet the requirements of guarantees of due process. Certain sanctions committees performed virtually judicial functions in order to determine whether the relevant sanctions regimes had been violated; for that reason, those committees must develop coherent judicial precedents and must respect the right to a defence of the States accused of violating the sanctions. It would be desirable for all the decisions of those committees to be made public.

21. With regard to the peaceful settlement of disputes, his delegation welcomed the draft resolution submitted by Sierra Leone and the United Kingdom. It was a useful proposal which made it possible to

envisage a specific and positive outcome of the debates on the question in the Special Committee.

22. He welcomed the proposals made by Japan with a view to improving the working methods of the Special Committee. In order to achieve that goal, however, there was a need not only to reiterate the provisions already contained in the rules of procedure of the General Assembly, but to make a further contribution to institutional practice and, to the extent possible, to ensure that the rules which were adopted could be extended to other subsidiary bodies of the General Assembly.

23. **Mr. Guan Jian (China)** said that the revised working paper submitted by the Russian Federation, entitled "Basic conditions and standard criteria for the imposition of sanctions and other coercive measures and their implementation", was aimed at establishing standard criteria for the imposition of sanctions, so that they could achieve their purposes as quickly as possible, while minimizing their negative impact on the humanitarian situation.

24. His delegation agreed with the Special Committee that the document should be considered paragraph by paragraph. It was to be hoped that at its next session, the Committee would continue its consideration of the document, with a view to reaching consensus rapidly.

25. The draft resolution contained in the working paper submitted by Belarus and the Russian Federation at the previous session of the Special Committee with regard to the use of force under Chapter VII of the Charter (A/AC.182/L.104/Rev.1) was of great importance in maintaining and strengthening the international collective security system with the Security Council at its centre. The document should be considered on a priority basis.

26. His delegation agreed with the basic thrust of the working paper submitted by the Russian Federation entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations" and also agreed that it should be discussed in depth. In that regard, the Sixth Committee and the Special Committee should play a more prominent role in peacekeeping. At the same time, the relevant bodies should coordinate their activities through existing channels or by other means, so that a more comprehensive and objective view of the issues could be obtained.

27. The issue of the implementation of Charter provisions related to assistance to third States affected by sanctions was of great interest to developing countries. The use of sanctions as a means of settling international disputes should be minimized. Moreover, the international community should support the just demands of third States affected by sanctions. His delegation welcomed the conclusions and proposals of the ad hoc expert group, which could serve as a basis for formulating a set of recommendations to evaluate the negative effects on third States of preventive measures or the application of sanctions. The establishment of a fund and a permanent consultative mechanism to assist third States should also be actively explored.

28. His delegation took note of the progress made by the Special Committee on the issue of peaceful settlement of disputes. In that context, he said the revised informal working paper submitted by Sierra Leone and the United Kingdom, which emphasized the use of existing mechanisms, merited further study.

29. With respect to the future of the Trusteeship Council, his delegation believed that the Council should not be abolished, nor should its mandate be changed, despite the fact that it had fulfilled the mandate entrusted to it by the Charter. Any change in the mandate would entail a revision of the Charter of the United Nations and should be dealt with solely in the context of the reform of the Organization.

30. His delegation appreciated the efforts made by the Japanese and other delegations with a view to improving the working methods and enhancing the efficiency of the Special Committee, and would do its utmost to contribute to the achievement of that goal.

31. **Mr. Hetesy (Hungary)** said that the work of the Special Committee, and ultimately its future, depended on the reform of its working methods. Despite the commendable efforts of its Chairman, the Special Committee had completed its session without achieving meaningful progress on any of its agenda items because of deep-rooted divisions and a systemic failure of its work. Hungary therefore supported the efforts to reform the Special Committee and commended the Japanese delegation for taking a leading role in that exercise. It was regrettable that even the debate on reform proposals had suffered the effects of systemic failure. Bold proposals were currently in jeopardy due to a lack of political will or consensus, while the

attempt to establish a lowest common denominator might result in partial measures. Without new foundations, the Special Committee would not only lose its capacity to strengthen the United Nations system, but would also be relegated to mediocrity.

32. Hungary wished to reiterate that assistance to third States affected by sanctions was not simply an issue related to Article 50 of the Charter of the United Nations. Article 50 dealt with the relationship between the Security Council and "third States" and, in that regard, Hungary welcomed the establishment by the Security Council of the working group on sanctions. It was to be hoped that the working group would give Article 50 the attention it deserved. Delegations had highlighted the relationship between peacekeeping operations and sanctions regimes, which preceded, replaced or complemented peacekeeping operations. While the Fifth Committee was trying to eliminate the burden-sharing irregularities of the peacekeeping scale, the Special Committee had failed to act on any of the recommendations of the ad hoc expert group. If all went well, the Special Committee would start its deliberations on the recommendations in the spring of 2001, i.e., almost three years after the recommendations had been formulated.

33. Hungary which participated actively in the reform of peacekeeping operations, believed that the Special Committee should also deal with the issue of assistance to third States on a priority basis. It should first concentrate on recommendations enjoying wide support, and should propose that the Sixth Committee endorse those recommendations. In that way, the General Assembly would give the first set of guidelines to the Secretary-General at the end of 2001, while the Special Committee could continue its deliberations on the remaining proposals. Furthermore, the recommendations should be discussed directly in the Special Committee. Hungary feared that the establishment of a new sub-organ might cause further delays and a repetition of debates, and raise questions concerning the authority of each organ.

34. Adequate funding should be provided to the main judicial organ of the United Nations. While the workload of the International Court of Justice had grown substantially, the Court was still feeling the impact of previous budget cuts. Since the General Assembly would decide on the next biennial budget at its fifty-sixth session, it was time to formalize the request for full funding in the current year.

35. **Mr. Lavalle-Valdés** (Guatemala) said that the report of the Special Committee contained proposals which over the years had become permanent features and on which deadlock seemed destined to persist, because it was unlikely that in the foreseeable future the Special Committee would reach a consensus on their adoption. The proposals were in fact a repetition of others already presented in other forums. For example, the proposal made in chapter III, section B of the Special Committee's report had covered issues already contained in General Assembly resolution 51/242 of 15 September 1997. Those observations also applied to sections C to F of chapter III. Another persistent feature of the Special Committee's proposals was that they were extremely brief and lacking in substance. Nevertheless, they contained some very positive concepts, especially with regard to strengthening the role of the General Assembly. Guatemala would like those proposals to be addressed with the firm purpose of achieving, through compromise, their approval by the Special Committee, so that they could be submitted for adoption by the General Assembly.

36. With respect to assistance to third States affected by sanctions, the sessions of the Special Committee were always held before the Secretary-General circulated his annual report on the item, and therefore the discussion in the Special Committee was simply a continuation of the talks held in the Sixth Committee on the preceding year, and since that additional discussion took place after the adoption of the latest General Assembly resolution on the item, it was of little use.

37. On the subject of peaceful settlement of disputes, which was of particular interest to Guatemala, he was pleased that the proposal submitted by Sierra Leone in 1994 had been modified in 1998 and had become a draft General Assembly resolution which stressed the importance of the peaceful settlement of disputes and reminded States of the wide variety of methods available for achieving that end.

38. With regard to chapter V of the Special Committee's report, his delegation wished to reiterate that it would be necessary to amend the Charter of the United Nations in order to achieve the proposed objective. In conclusion, referring to chapter VII of the report, he commended the Japanese delegation for its proposal aimed at enhancing the efficiency of the Special Committee. Guatemala believed, however, that

if the Special Committee received proposals which could, although at the cost of a great deal of work, lead to positive results, the issue of its working methods would not have to be raised.

39. **Mr. Tarabrin** (Russian Federation), referring to the concept of "strategic stability" formulated by the Russian Minister for Foreign Affairs, Mr. Igor S. Ivanov, said that the main objective of that concept was to ensure the security of States and peoples through cooperation on the basis of the Charter of the United Nations and of the principles and norms of international law. The working paper submitted by the Russian Federation and Belarus to the Special Committee in 1999 to defend the key provisions of the Charter had followed that policy. The work on the paper should be continued in a non-confrontational and purely legal manner.

40. The issue of sanctions should still be a matter of priority. The report of the Secretary-General on the work of the Organization (A/55/1) had underscored the necessity of further improving sanctions regimes in order to increase their effectiveness and flexibility. In that context, at the previous session of the Special Committee, the Russian Federation had introduced the revised working paper entitled "Basic conditions and standard criteria for the introduction of sanctions and other coercive measures and their implementation". It believed that sanctions were a very powerful tool for containing and preventing conflicts, but should not become an instrument for punishing States and peoples, or for destabilizing the economic situation in the target country or third States. The elaboration of additional recommendations on the principles of implementation of sanctions would help the Security Council to enhance the legitimacy of its decisions. His delegation was satisfied with the progress achieved by the Special Committee in the article-by-article examination of the paper introduced by the Russian Federation.

41. His Government considered it essential to continue work on the report of the Secretary-General entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions" (A/55/295/Add.1) and fully supported the Special Committee's recommendation in its report that at its fifty-fifth session the General Assembly "should continue to consider, in an appropriate substantive manner and framework, the results of the ad hoc group meeting" (A/55/33, para. 48).

42. The method for calculating damage to third States affected by the implementation of sanctions proposed in the report of the group of experts (A/53/312) was generally acceptable. However, in future deliberations, various questions should be considered in greater detail: for example, how the States indirectly affected by sanctions should be identified, what scale should be used in taking decisions on the extent to which assistance should be provided to those States and whether the level of economic development of third States and their relations with the State targeted by sanctions should be taken into account.

43. Furthermore, without questioning the role of the international financial institutions, it was the principal organs of the United Nations which should be responsible for influencing decisively the formulation of final decisions on the distribution of assistance to third States affected by sanctions. The most efficient method of addressing the issue of sanctions would be to establish a working group within the Sixth Committee.

44. With respect to the important issue of elaborating a legal basis for peacekeeping operations, the Special Committee's agenda included a Russian working paper, "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations" (A/AC.182/L.89/Add.2 and Corr.1), which summarized United Nations expertise in peacekeeping activities and made recommendations for the improvement of those activities. In the light of the many-faceted nature of that issue, the focus should be on formulating legal parameters for peacekeeping operations carried out with the consent of States in the context of Chapter VI of the Charter of the United Nations.

45. As for the Trusteeship Council, the decision whether to give it additional functions or to eliminate it required comprehensive, prudent consideration, taking into account the more general objectives of the reform of the United Nations.

46. His delegation greatly appreciated the Secretary-General's efforts to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs and Repertoire of the Practice of the Security Council*. It was also important to support the activities of the trust fund for voluntary contributions and the special training programme for junior professionals desiring to obtain in-depth knowledge of

the Charter and the practices of the Security Council. He agreed with the Secretary-General that extension of the internship period from two months to four to six months and the use of interns to prepare the repertoires would reduce the publication backlog.

47. Lastly, with respect to improvement of the Special Committee's working methods, his delegation was in favour of maintaining the current format and was opposed to the establishment of working groups within other United Nations structures in order to deal with issues falling within the mandate of the Special Committee.

48. **Mr. Goma** (Egypt) emphasized that sanctions should be exceptional measures, in accordance with the provisions of Chapter VII of the Charter of the United Nations, and should be resorted to only when all the pacific means mentioned in Chapter VI had been exhausted. The imposition of sanctions should be based on clear, objective criteria and should have specific time limits in order to prevent them from becoming a political instrument in the service of certain members of the Security Council. Article 50 of the Charter provided for a mechanism that the Security Council had not used sufficiently in the past: the holding of consultations with States affected by the adoption of preventive or enforcement measures. He therefore welcomed the report of the Secretary-General on implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/55/295/Add.1) and invited the Security Council to give closer consideration to implementing the provisions of Article 50 of the Charter. In that context, he referred to the note dated 29 January 1999 from the President of the Security Council on that matter. He urged United Nations bodies and the regional and international financial institutions to endeavour to achieve an equitable distribution of the burden of sanctions among all Member States and noted that in 1962, the International Court of Justice had issued an advisory opinion on that matter in relation to the issue of certain expenses of the United Nations. It was also important to bear in mind the opinion expressed by the group of experts which had met in June 1998 in order to establish a possible methodology for evaluating the adverse effects actually experienced by third States as a consequence of the implementation of preventive and enforcement measures.

49. His delegation urged respect for the constitutional balance between the Security Council, which was responsible for imposing sanctions, and other United Nations organs, especially the General Assembly, which, as a transparent, democratic organ, should consider and review sanctions. The Security Council's current monopoly on evaluating the very sanctions that it had imposed was unacceptable.

50. With respect to the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, he congratulated the Secretary-General on his efforts to update the former and looked forward to the publication of Supplement 6, Volume 1, in the coming year. Moreover, despite the increase in Security Council activity in recent years, the latter publication included only 70 per cent of what it should; in addition, the number of staff members responsible for its preparation had been reduced, as a consequence of which the updating was proceeding at a slower pace than in the preceding year.

The meeting rose at 11.40 a.m.